



## STATE BOARD OF LAND COMMISSIONERS

Dirk Kempthorne, Governor and President of the Board

Pete T. Cenarrusa, Secretary of State

Alan G. Lance, Attorney General

J. D. Williams, State Controller

Marilyn Howard, Superintendent of Public Instruction

Stanley F. Hamilton, Secretary to the Board

### Final Minutes Regular Land Board Meeting January 11, 2000 9:00 AM

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, January 11, 2000 in Boise, Idaho. The Honorable Dirk Kempthorne presided. The following members were present:

Honorable Secretary of State Pete T. Cenarrusa  
Honorable Attorney General Alan G. Lance  
Honorable State Controller J. D. Williams  
Honorable Superintendent of Public Instruction Marilyn Howard  
  
Secretary to the Board Stanley F. Hamilton

Prior to beginning the Land Board meeting, Governor Kempthorne took a moment to acknowledge the passing of Senate President Pro Tem Jerry Twiggs. The Governor stated Senator Twiggs was truly an outstanding individual. There will be a void because of the stature of this man and his past years of public service. The Governor commented it is nice in politics when you find someone who is so well liked by all people of all different backgrounds and party affiliations. Jerry Twiggs served the State of Idaho extremely well.

The Governor also took a moment to thank Attorney General Lance for his help in looking at some of the constitutional questions regarding when the State of the State occurs.

## • **CONSENT AGENDA**

Director Hamilton provided background information on the Consent Agenda items.

A motion was made by State Controller Williams to approve the Consent Agenda in its entirety. Attorney General Lance seconded the motion. The motion carried on a vote of 5-0.

### 1. **Official transactions – approved**

- A. Interest Rate Report
- B. Bureau of Range Management and Surface Leasing for Cropland, Grazing, Cottage Site, Miscellaneous and Submerged Land Leases – November 1999
- C. Timber Sale Official Transactions for the period November 20, 1999 through December 22, 1999
- D. Bureau of Real Estate, Land Sale Section – November 1999

### 2. **Timber sales, staffed by Ron Litz, Chief, Bureau of Forest Management – approved**

- |              |               |           |
|--------------|---------------|-----------|
| A. CR-3-0458 | Graham Beetle | 3,890 MBF |
| B. CR-3-0461 | Elk Peak Bugs | 7,435 MBF |
| C. CR-4-0619 | Shea Meadows  | 3,420 MBF |

### 3. **The following minutes – approved**

- A. Regular Land Board Meeting – December 14, 1999

**4. Request from City of Payette to extend five-year termination clause of State of Idaho Easement No. 5867, staffed by Perry A. Whittaker, Chief, Bureau of Real Estate – approved**

*DEPARTMENT OF LANDS RECOMMENDATION:* It is recommended that Easement No. 5867 be amended to extend for ten years the five-year non-use termination clause as requested by the City of Payette. This easement is also a 20-year term easement. It is recommended that when the path and bridges are constructed, the easement shall be amended to extend the termination date of the easement to twenty (20) years from the date of completion of the project with the right of renewal at the end of twenty (20) years under terms and conditions set forth by the State of Idaho.

*ACTION:* Board approved.

• **REGULAR AGENDA**

**5. Director's Report, presented by Stanley F. Hamilton, Director, Department of Lands**

- ❑ Principal Funds Balances as of December 31, 1999
  - Public School \$547,714,524
  - Pooled \$251,098,711
  - TOTAL \$798,813,235
- ❑ (Newspaper Article) *Timber harvest in federal lands down in Idaho* [Lewiston-AP]. The article talks about timber harvests on the Clearwater and Nez Perce National Forests. The figures are both very low in terms of what the Clearwater and Nez Perce National Forests could sustain easily on an annual harvest basis.

No action taken on this agenda item.

**6. Audience with the board: Charles W. Moss, Director, State Bunker Hill Project Team, regarding the status of land transfers at the Bunker Hill Superfund Site in Shoshone County**

Mr. Moss briefed the board on pending land transfers at the Bunker Hill site and on pending legislation, an RS clarifying Idaho Code § 39-107A.

The legislation will provide economic development opportunities by leveraging such property into job producing enterprises and by re-establishing the property tax base. Those benefiting from the legislation will be the citizens living at the Bunker Hill site and their local governments.

*ACTION:* Attorney General Lance moved that the Land Board support and endorse the RS as proposed by Agenda Item # 6. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

**7. Audience with the board: Church of the Nazarene regarding a potential land exchange.**

Mr. Randy Peterman and Mr. Brad Hoagland appeared before the board on behalf of the Intermountain District Church of the Nazarene. Mr. Peterman expressed interest in discussing a potential land exchange involving Victory Cove, a five-acre piece of lakeside property located on the peninsula within Ponderosa State Park. The church leases Victory Cove from the state Land Board and has leased the property for approximately the last 70 years.

Senator Bunderson addressed the board offering an alternative. He suggested that the Land Board craft a lease that would meet the requirement of the least responsible cost to the taxpayers.

*ACTION:* Governor Kempthorne recommended that Attorney General Lance and State Controller Williams form a subcommittee to determine the course of action that would allow the board to put all the pieces of the issue together. He requested the subcommittee return to the Land Board with their recommendations and findings.

State Controller Williams asked Senator Bunderson if another analysis could be completed showing a scenario where it may be possible, for an interim period, for an exchange to take place with the endowment at a reasonable rate of return to the endowment. He suggested that the subcommittee work with Director Pam Ahrens and her staff at Department of Administration. Senator Bunderson said an analysis would be possible and he would assist.

## **8. Discussion on President Clinton's Roadless Initiative**

Director Hamilton provided follow-up information on the possible impact of the Forest Service Roadless Initiative, as requested by the board. The Department of Lands has reviewed the President's proposal to the best of its ability. However, since many of the areas under consideration for inclusion in the Roadless Initiative are not inventoried, and have not been mapped, a complete analysis is not possible. More work needs to be done as the Forest Service completes its work and tries to determine what lands will be included in the Roadless Initiative. The Forest Service still has to analyze the 1000 to 5000 acre parcels that might be added to the proposal.

In the interim, the department will continue to monitor the roadless policy proposal.

## **9. Result of auction for lease G-6639 – Simplot Livestock Company, Presented by Tracy Behrens, Range Management Specialist**

*DEPARTMENT RECOMMENDATION:* The department recommends that the board accept the high bids of \$1500 and \$2000 offered by Simplot Livestock for portions of lease G-6639. The acreage included in the conflicted parcels will be incorporated into one lease for the entire 14,143 acres in the original cancelled lease. The new lease will include a grazing management agreement based on the grazing management proposal submitted by Simplot Livestock and agreed to by the department, which includes grazing the land by livestock belonging to Simplot Livestock or to a sublessee approved by the department.

*DISCUSSION:* Controller Williams commented that this is a lease where various bids have been made on only a portion of the lease and not on the entire lease. From a financial viewpoint the board hopefully will net approximately \$500,000 from all grazing leases this year. Controller Williams said it appears to him the state does a lot of work for the same amount of money that would fund probably one elementary school in the state.

In looking at the need to reduce administrative costs, the board may want to look at other options in the future. For example, when a lease comes up, unless there is something highly unusual about the lease, the entire lease should be conflicted so there is one administrative action taken for that lease.

Controller Williams also asked if there was a management plan for the lease in place now or will there be a plan acceptable to the department put in place as a condition of the lease. Mr. Behrens responded he believes there are several sub-management plans in effect. Management is coordinated annually with the BLM.

Secretary of State Cenarrusa commented Controller Williams made a good point regarding the breaking up of large leases. Discussions have been held in the past as to whether a big lease should be broken up or leased as a whole. Secretary of State Cenarrusa feels this will be a policy decision of the board, or established rules, to determine what the size of a lease will be.

*ACTION:* A motion was made by Attorney General Lance to adopt the recommendations of the Department of Lands relative to agenda item #9 with the caveat that a satisfactory grazing management plan and a vegetation management plan be submitted by the applicant and successful bidder. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

**10. Result of auction for lease G-9140 – Wes Miles, et al, presented by Tracy Behrens, Range Management Specialist**

*DEPARTMENT OF LANDS RECOMMENDATION:* The department recommends that the board accept the high bid of \$2000 submitted by Randy Seed for the lands in expired grazing lease G-9140. The lease will be for 920 acres providing 97 AUMs and will include a management agreement based on the management proposal submitted by Mr. Seed wherein Mr. Seed will graze the leased land with livestock belonging to him or to a department-approved sublessee.

*ACTION:* A motion was made by Secretary of State Cenarrusa to accept the Department of Lands recommendation with the caveat that a satisfactory grazing management plan and a vegetation management plan be submitted by the applicant and successful bidder. Attorney General Lance seconded the motion. The motion carried on a vote of 5-0.

**11. Cancelled lease G-7390, formerly held by Smith and Wolf, presented by Tracy Behrens, Range Management Specialist**

*DEPARTMENT OF LANDS RECOMMENDATION:* The department recommends that Idaho Watersheds Project, as the sole applicant for the grazing lease on the subject state land, be issued a new ten-year grazing lease for the 426.13 acres, providing 45 AUMs, as identified in canceled grazing lease G-7390. The lease will include a management statement based on the proposal submitted by IWP and that meets the department objectives as identified in the Resource Assessment for the lands. Any sublease agreement must be approved by the department in advance and in accordance with standard grazing lease provisions and appropriate rules.

*ACTION:* A motion was made by Secretary of State Cenarrusa to accept the Department of Lands recommendation with the caveat that a satisfactory grazing management plan and a vegetation management plan be submitted by the applicant and successful bidder. Attorney General Lance seconded the motion. The motion carried on a vote of 5-0.

**12. Result of auction for lease G-6359 – Highland Land & Livestock, presented by Tracy Behrens, Range Management Specialist**

*DEPARTMENT OF LANDS RECOMMENDATION:* The department recommends that the board accept the high bid of \$1500 submitted for lease G-6359 and issue a new grazing lease for 99 AUMs to Idaho Watersheds Project. The lease will include a management statement based on the proposal submitted by IWP and that meets the department objectives as identified in the Resource Assessment for the lands. Any sublease agreement must be approved by the department in advance and in accordance with the standard grazing lease provisions and appropriate rules.

*DISCUSSION:* Controller Williams commented that there appears to be some problems now and potential future problems with this grazing lease. He asked Mr. Behrens if IWP has agreed to work with the department on current and potential issues. Mr. Behrens responded that the department has a written statement from IWP that they would cooperate with the department, Ada County Highway District and the Boise County Highway District, if needed, to address any identified concerns.

Secretary of State Cenarrusa asked Mr. Behrens if, with an exchange use of one AUM, IWP would be permitted to graze one AUM on the BLM lands. Mr. Behrens responded if the BLM were to grant IWP an exchange of use for one AUM that would imply that the BLM recognizes that IWP would be using one

AUM of forage off the state land. BLM would recognize the fact that there could be livestock present that could move onto the BLM lands through the open range areas.

Secretary of State Cenarrusa commented that one AUM is insignificant. He believes IWP would be responsible for a 35% surcharge to the BLM on a sublease, if there is an income. Mr. Behrens said if IWP were to sublease, the sublease would have to receive advance permission from the Department of Lands. The lease would be issued for 99 AUMs and that number would be authorized for use on the state lands. If IWP uses the lease for livestock other than their own they would need to secure a sublease agreement with the Department of Lands. Mr. Behrens stated he can not address how the BLM would handle additional AUMs if their exchange of use agreement is for one AUM.

Controller Williams commented this lease is in close proximity to the major Boise urban area. In 1996 a fairly large fire occurred there. The basic plan is the high bidder will make arrangements with BLM to do an exchange of use for one AUM, which would apparently give the bidder some standing. Also in this particular case, there is a trailing permit that would be granted to the previous lessee, who used the lease to basically get from one part of his operation to another.

Controller Williams asked if forage gets to the point that it may be dangerous, is there any problem with the department telling the lessee that as part of the management of the lease there has to be more forage taken off and that the lessee has to graze the lease to a higher than current level. Mr. Behrens said he sees no problem with going to the lessee and discussing the use and then taking whatever steps the department feels is necessary to manage the resource. He believes the department would have the authority to work with the lessee to try to secure more use if it was deemed the additional use was necessary.

Controller Williams asked Mr. Jon Marvel, representative of IWP, if he had any problem with the aforementioned concept. Mr. Marvel said he would have no problem with the concept if the board or the department can show any evidence that the state has ever asked a rancher to do the same thing. Controller Williams responded not getting into the past but looking at the period of time that IWP will have the lease, does IWP recognize that at some point there could be additional objective conditions put on the lease based upon actual existing conditions. Mr. Marvel stated IWP has no objection to working with the Department of Lands to achieve reasonable objectives.

*ACTION:* A motion was made by Attorney General Lance to accept the Department of Lands recommendation subject to a satisfactory grazing management plan and a vegetation management plan being submitted. The lease would also be subject to a trailing exception that is acceptable to Mr. Brad Little. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

### **13. Result of auctions for lease G-7576 – Sawtooth Grazing Association, presented by Tracy Behrens, Range Management Specialist**

*DEPARTMENT OF LANDS RECOMMENDATION:* The department submits the following recommendations concerning lease G-7576:

1. The board accept Kelley Weston's high bids of \$800 for the 772 acres of state land in the Croy Creek allotment with 107 AUMs and \$450 for the 1840 acres with 201 AUMs in the Dry Creek allotment. Mr. Weston will be issued one lease for 2612 acres. The lease will include a management statement based on the proposal submitted by Mr. Weston and that meets the department objectives as identified in the Resource Assessment for the lands. Any sublease agreement must be approved by the department in advance and in accordance with standard grazing lease provisions and appropriate rules.

2. The board accept Sawtooth Grazing Association's high bid of \$400 for the 640 acres with 38 AUMs of state land in the Quigley Gulch allotment. SGA will be issued a lease for 6089.21 acres. This acreage includes the 242 acres involved in the auction scheduled between IWP and SGA, and the remaining non-conflicted acreage in expiring lease G-7576. The lease will include a grazing management agreement based on the grazing management proposal submitted by SGA and will require SGA to graze the leased land with livestock belonging to SGA or to a department-approved sublessee. Any sublease agreement

must be approved by the department in advance and in accordance with standard grazing lease provisions and appropriate rules.

*DISCUSSION:* Secretary of State Cenarrusa asked if in the Dry Creek area there is a common use with the Dry Creek Cattle Association. Mr. Behrens responded he believes there is. Secretary of State Cenarrusa asked if Mr. Weston, the high bidder, would become a part of the cattle association. Mr. Behrens stated there would be no requirement for Mr. Weston to become a member of the association. He would be considered a private landholder within the allotment. It would be at his discretion to see if there was any need for him to join the association. It would also be at his discretion to work with the BLM to secure any exchange of use.

*AUDIENCE WITH THE BOARD:* Mr. John Faulkner, President of the Sawtooth Grazing Association, was granted an audience with the board. Mr. Faulkner feels this lease is a case of "cherry picking." He stated the land in Kelly Creek and Dry Creek is land that the Sawtooth Grazing Association is willing to give up because without fencing to keep livestock off this lease land, Mr. Faulkner feels the land will be grazed anyway.

*AUDIENCE WITH THE BOARD:* Mr. Kelly Weston was granted an audience with the board. As a citizen who is concerned about the long-term health of the land, Mr. Weston said he would like an opportunity and a way to participate in the process. Mr. Weston feels that state lands leased for grazing are being dominated by one small minority. He said there are a lot of people who believe better uses for the land would be for wildlife habitat, habitat for native plants, preservation of riparian zones, for clean water or other uses which he does not believe are furthered by livestock grazing. Mr. Weston stated his primary goal is to do whatever is necessary to lead to the health of the land in question.

*DISCUSSION CONTINUED:* Attorney General Lance asked Mr. Weston if he was aware of the fact that to assign a lease or to provide for a sublease requires the approval of the board. Mr. Weston stated he does understand and that he is not intending to sublease the property. He stated he is more than willing to pay the lease fees for the next ten years.

Controller Williams asked Mr. Weston about the riparian area of Dry Creek. Mr. Weston stated the riparian area of Dry Creek was a disaster this year. Kelly Creek, as indicated by Mr. Faulkner, is not as heavily used but it is a very interesting ecological place because of the timber and riparian areas. Controller Williams commented it appears from Mr. Weston's letter that he is proposing the exchange to reduce the overall carrying capacity in the allotment. Mr. Weston concurred. Controller Williams asked Mr. Weston if he planned to do anything else with the riparian area. Mr. Weston stated he has a lot of ideas for the area. One idea is to use the properties as study areas for children. Mr. Weston stated he does not have any plans to actually use the riparian zone. He said he would merely like to see a reduced livestock impact to allow the riparian zones to recover their natural habitat.

Controller Williams asked Mr. Weston to suppose this is a situation where as part of the lease renewal to anybody the department was to put conditions on the lease. The conditions would be very site-specific and fact-based. Mr. Weston said he would be very happy to work with the Department of Lands. However, he stated if the board or the department included onerous conditions that were not imposed on other leaseholders, those included conditions would not be fair. If the board or department is willing to put conditions on leases on state lands which require that the leaseholder undertake certain efforts to increase the health of the riparian zone, Mr. Weston stated he would be all in favor of that action. He further stated he feels conditions should be put on the lease requiring the owner of the lease to maintain healthy conditions on the lease.

*ACTION:* A motion was made by Attorney General Lance to adopt the recommendations of the Department of Lands with the caveat that a satisfactory grazing management plan and a vegetation management plan be submitted by the applicant and successful bidder. State Controller Williams seconded the motion. The motion carried on a vote of 5-0.

#### **14. Appeal of auction for lease G-9470 – Mountain Springs Ranch, presented by Tracy Behrens, Range Management Specialist**

*DEPARTMENT OF LANDS RECOMMENDATION:* The department recommends that the board reject the high bid from IWP and offer MSR a ten-year lease with the bid of \$200 submitted at the lease auction. The lease will be for 6407.56 acres allowing 434 AUMs and will include an annual special use fee of \$250 for the right to maintain a rider's cabin on the Spring Basin section. The \$250 annual fee for the rider's cabin combined with the bid of \$200 will return \$2700 to the beneficiary compared to the \$1200 bid submitted by IWP over and above the grazing rental.

The lease will also include a grazing management agreement based on the grazing management proposal submitted by MSR and will require MSR to graze the leased land with livestock belonging to MSR or to a department approved sublessee. Any sublease agreement must be approved by the department in advance and in accordance with the standard grazing provisions and appropriate rules.

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State Controller Williams proposed the following guidelines to aid the board in making decisions on conflicted grazing leases. Controller Williams then moved that the board adopt the guidelines. Secretary of State Cenarrusa seconded the motion with the provision that the board may add to the guidelines as necessary. The motion carried on a vote of 5-0.

##### **❑ Guidelines Regarding the Award on State Grazing Leases Involving Conflict Bids**

In awarding state grazing leases to a conflict bidder the guidelines to be followed by the board by taking into account applicable constitutional, statutory provisions and judicial decisions are as follows:

1. The board will start with the premise that the best way to secure long-term maximum return from grazing leases is to have competitive auctions.
2. If the board rejects the highest premium bid made at the auction it shall articulate reasons why it has determined in its discretion why it is in the long-term best interest of the beneficiaries of the endowment to reject the high bid.
3. Reasons which the board may articulate in support of its decision may include, but not be limited to, any of the following:
  - a. The unique characteristics of the land involved, such as being a source of water or access or a key location that impacts the proposed lease or other endowment property.
  - b. The relationship of the lease lands to other state endowment lands and/or other lands in the grazing allotment which directly benefit the endowment, i.e., rest rotation pastures that improve the forage on the lease.
  - c. The impact on the existing grazing management plan or goals determined by the state Department of Lands regarding the leased property and approved by the board, i.e., forage management objectives to secure maximum long-term return to the endowment such as improvement of forage on the lease or prevention of range fires by grazing of forage on the lease.

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*DISCUSSION:* Attorney General Lance asked for clarification. If the board accepts Mountain Springs Ranch's proposal, the endowment will receive more money from Mountain Springs than it would from IWP. Mr. Behrens stated that is correct.

Controller Williams next asked Mr. Behrens questions following the newly adopted guidelines. The first question requested a clear explanation of why the department made its recommendation not to accept the high bid. Mr. Behrens stated the cabin could be considered a unique feature in this lease. Controller Williams asked if the other sections of state property within this allotment are impacted by the range rider cabin. Mr. Behrens stated to the best of his knowledge the cabin is used for allotment administration;

therefore a connection could be made that use of the cabin does impact the use and management of the other parcels.

Secretary of State Cenarrusa asked if any of the conflicted sections are fenced. Mr. Behrens stated he does not believe there are any fences on the parcels. Secretary of State Cenarrusa asked the conflictor, Mr. Marvel, how IWP could keep livestock from trespassing on those sections. Mr. Marvel responded IWP has no intention of keeping livestock out.

*AUDIENCE WITH THE BOARD:* Mr. Jon Marvel, President, Idaho Watersheds Project (IWP), was granted an audience with the board. Mr. Marvel referred to the Highland Livestock lease outside of Boise. In that lease, the department reserved the right to enter into a sheep trailing agreement with Highland via a temporary permit authorizing Highland sheep to cross state land to get to their adjacent open range areas. Mr. Marvel stated it seems to him it would be entirely within the authority of the Department of Lands and the board to authorize a permit for the presence of the cabin on the state section in question and to accept the high bid for this auction. In doing so, the department and the board would thereby maintain not only the income from the cabin site but also the funds in excess of the low bid.

Mr. Marvel further commented that since the cabin was introduced as an issue of returning more money to the school endowment fund, the board should consider an alternate proposal from IWP to pay \$500 per year for that same site on this section every year of the lease. Mr. Marvel stated he was prepared to make that proposal. Mr. Marvel pointed out that there are now two IWP proposals before the board. Each proposal would make more money for the endowment than the recommendation of the department staff. Mr. Marvel strongly suggested the board consider one of the two IWP proposals.

*AUDIENCE WITH THE BOARD:* Mr. Shane Rosenkrance, Ranch Manager, Mountain Springs Ranch, was granted an audience with the board. Mountain Springs Ranch feels the Ranch is best suited to manage the allotment. The Ranch feels their successful management of the allotment is in the best long-term interest of the state and the children. The Ranch feels each section is a part of the whole. Without the four sections in the lease, the other sections are greatly affected. Mr. Rosenkrance feels these parcels are the cream of the allotment. One reason for that opinion is the availability of water. Another reason is the importance of the rider's cabin to the Ranch's operation. The Ranch uses a deferred and a rest rotation system. The combination of deferred and rest rotation allows for rapid habitat improvement and protection of the resource. The Spring Basin section, where the cabin is located, is central to the allotment. The Ranch bases its management out of that section.

*DISCUSSION CONTINUED:* Superintendent Howard commented that when she receives the Land Board briefing book she comes to the meeting prepared to address what she has read. She stated it bothers her when bidding at the table is attempted. She further stated she keeps track of the Mountain Springs Ranch area through reading the Challis Messenger and the Arco Advertiser from time to time to see what people are doing. In doing so, she is aware of the importance of the Mountain Springs Ranch in the life of the valley. She feels it is worthwhile for the board to think about what ranching does for Idaho communities. It provides employment, but beyond that there is a flow to the life of a valley when a ranch is there. And beyond that, because she keeps track of these things, she knows that this is a ranch that supports the community. The ranch buys the 4H calves and supports the FFA projects. Superintendent Howard feels that the support given to the valley by the Mountain Springs Ranch is a benefit to the school children of Idaho because that is how children make their college money.

Superintendent Howard stated that Mountain Springs Ranch has donated \$25,000 for student scholarships in the high school. She feels that action by the Ranch is a benefit to the school children of Idaho. The Ranch has donated \$10,000 for a library. That donation also benefits the school children of Idaho. In addition to monetary donations, the Ranch has also donated manpower – working on football fields, youth projects, hauling kids, volunteering as coaches at games. She commented that is what ranches do. Ranches are part of the ebb and flow of life. They provide a commitment to a community and they provide the ongoing dollars that actually matter to the children in that area.

Superintendent Howard stated she is very comfortable with the lease to Mountain Springs Ranch because she sees there is a return to the state. She does wish the Ranch had bid higher on the lease but

with the total dollar figure, she is comfortable with the lease. She stated it goes beyond the dollar amount and she sees the lease as a return to the school children of Idaho. The return is not dispersed. It is committed to that community and to the children of that community.

Attorney General Lance commented he has reviewed the management plans submitted. In his opinion, the management plan submitted by Mountain Springs Ranch is probably the most comprehensive and thorough of any management plans he has seen since he has been a member of the Land Board. If he were leasing his personal property to someone presenting a management plan of this magnitude, he would be very comfortable leasing his assets to that potential lessee.

In response to Superintendent Howard's concern about bidding at the table, Director Hamilton addressed IWP's alternate proposal, as offered by Mr. Marvel at this meeting, of \$500 per year for the cabin site for every year of the lease. Director Hamilton stated that several years ago the Land Board discussed bidding at the table. At that time the board decided there could not be any bidding at the table. If the board considers new bids, all of the bids to date would have to be rejected and the bid process would have to be started all over again.

Controller Williams stated this is an issue the board has dealt with for a long time. He feels there has to be a reason why the framers of the Constitution put four members on the Land Board and then added one more, the Auditor-Controller. Cases have been very clear that the board is given a great deal of discretion. It is difficult for a reviewing body to review what the board does because there is such an accumulation of what has been done in the last four or five years in today's decisions.

On the issue of the grazing lease rate, Controller Williams stated this is an issue the board has addressed. From a financial analysis, he feels the board is close to where it should be on the rate charged. That rate is not an issue here.

Controller Williams stated he has considered ingress and egress of the cabin. Because of a problem encountered in eastern Idaho, he commented it is the policy of the board not to allow cabins by non-lessees on grazing allotments. Controller Williams stated he feels this is a sound policy and is a discretionary call of the board. If there is going to be a cabin on a grazing lease, the cabin should be approved by the board and it should be managed by someone with an interest in that lease, i.e., the lessee. In this particular case, it impacts five other sections. Water issues are involved along with rest-rotation issues.

Controller Williams stated he feels all of the guidelines outlined today justify the discretionary call by the board to follow the department's recommendation.

*ACTION:* Superintendent Marilyn Howard moved that the board accept the Department of Land's recommendation on lease G-9470. State Controller Williams seconded the motion. The motion carried on a vote of 5-0.

## **15. Appeal of auctions for leases G-7213 and 7222 – Diamond A Livestock, presented by Tracy Behrens, Range Management Specialist**

*DEPARTMENT RECOMMENDATION:* The department recommends that the board reject the appeal filed by Diamond A Livestock and accept the high bids of \$750 and \$1800 submitted by IWP. The department recommends that IWP be issued one lease for 5223.53 acres providing 617 AUMs. The lease will include a management statement based on the proposal submitted by IWP and that meets the department objectives as identified in the Resource Assessment for the lands. Any sublease agreement must be approved by the department in advance and will be issued in accordance with department rules and policy relating to sublease agreements.

*AUDIENCE WITH THE BOARD:* Mr. Jon Marvel, President, Idaho Watersheds Project (IWP) was granted an audience with the board. Mr. Marvel provided a copy of a letter, dated January 5, 2000, from Gary Fullmer, District Ranger, Fairfield Ranger District, Sawtooth National Forest, to IWP. In the letter District Ranger Fullmer concludes that a reduced level of grazing would not increase or only have a negligible

affect on increasing the risk of wildfire in this allotment. Mr. Marvel also provided a copy of IWP's letter to which District Ranger Fullmer's letter is a response.

*AUDIENCE WITH THE BOARD:* Mr. Gary Richardson, Friends of Lime Creek was granted an audience with the board. Mr. Richardson provided handout materials and requested that the materials be included in the official record. Friends of Lime Creek is concerned about riparian damage to Lime Creek by livestock grazing. The group feels the Lime Creek area has not been managed well.

*AUDIENCE WITH THE BOARD:* Mr. Fred Faulkner, Diamond A Ranch, was granted an audience with the board. Mr. Faulkner said Diamond A has been grazing this lease allotment since the late 1960s. As far as he is aware, the Forest Service and the Department of Lands has not had any problems with his operation. Without fencing the allotment, Mr. Faulkner does not feel grazing would be any different than it has been in the past.

*ACTION:* Secretary of State Cenarrusa requested that this agenda item be deferred for one month so that information can be obtained regarding Forest Service grazing requirements. No objection was voiced.

## **16. Proposed 2000 Legislation, presented by Stanley F. Hamilton, Director, Department of Lands**

Director Hamilton stated that this agenda item relates to proposed legislation that the department is bringing before the board for consideration. Legislation is brought before the board for review and advice. No opposition to the proposed legislation going forward was voiced by the board, with Governor Kempthorne abstaining.

- *Proposed Constitutional Amendment to replace HJR 6* – replacement for a portion of HJR 6, which the Supreme Court overturned. The department proposes that the portion of HJR 6 supporting the land bank concept be sent forward again.
- *Similar Lands Bill* – change to section 58-138, Idaho Code, dealing with land exchange. It would allow the state to exchange for other lands of equal or greater value rather than similar lands of equal value.
- *Surplus Property Bill* – deals with surplus real property. The department proposes that whenever any department or board becomes terminated by law that the property that is not specifically provided for in legislation would become surplus and come to the Land Board for disposal.
- *Long Term Leasing Bill* – provides for something other than annual lease payments for properties under the management of the board and the department.
- *Monthly Rental Payments* – would change Idaho Code §§ 58-304, 58-305, 58-307 to provide that rentals for commercial leases and cottage site leases, and some other leases, may be paid on a monthly, quarterly, semi-annual or annual basis – other than just annually.

Director Hamilton brought three additional bills to the board's attention.

- *Department of Lands Records Management System* – Senator Bunderson will introduce a bill that would have the Department of Lands maintain a database to centralize the deeds of all fee simple property and encumbrances held by all state agencies.
- *Surplus Property* – Senator Bunderson will introduce a bill that will transfer administrative tasks of property disposal to the Department of Administration along with monies derived from sale. The Land Board would retain responsibility for oversight of process.
- *Small Miners Group* – The Small Miners Group will introduce a Reclamation Fund in Lieu of Bonding Bill. This bill would create a Reclamation Fund funded by a fee on Dredge and Placer Permits and Reclamation Plans that would replace individual bonding.

Attorney General Lance left the meeting at 12:30 p.m.

- **INFORMATION AGENDA**

**Director Hamilton briefed the Land Board on the Information Agenda items. No Land Board action is required on the Information Agenda.**

**17. Timber Sale Activity Report**

**18. Gypsy Moth Report**

- A motion was made by Secretary of State Cenarrusa to resolve into Executive Session at 12:45 p.m. State Controller Williams seconded the motion. The motion carried on a vote of 4-0, with Attorney General Lance absent.

- **EXECUTIVE SESSION**

**19. Treasure Valley Concrete vs. State – Update, presented by Will Whelan, Deputy Attorney General**

**20. To consider acquiring an interest in real property which is not owned by a public agency – Idaho Code 67-2345 (1)(c), presented by Perry A. Whittaker, Chief, Bureau of Real Estate, and Kent Nelson, Deputy Attorney General**

- A motion was made by Secretary of State Cenarrusa to resolve back into regular session at 1:00 p.m. State Controller Williams seconded the motion. The motion carried on a vote of 4-0, with Attorney General Lance absent.

Upon returning to regular session, and there being no further business to come before the board, the meeting adjourned at 1:05 p.m.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ Dirk Kempthorne  
President, State Board of Land Commissioners and  
Governor of the State of Idaho

/s/ Pete T. Cenarrusa  
Pete T. Cenarrusa  
Secretary of State

/s/ Stanley F. Hamilton  
Stanley F. Hamilton  
Director

The above-listed final minutes were approved by the State Board of Land Commissioners at the February 8, 2000 regular Land Board meeting.